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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,136	01/12/2005	Daniel Jeremy Craven	102792-395 (11056P5)	6752
27389 7590 01/02/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER LEVY, NEIL S	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 01/02/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/521,136	Applicant(s) CRAVEN ET AL.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-9, 12, 15, 20, 22, 24, 25, 27, 29, 31, 33, 36, 41-44 and 46-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 12, 15, 20, 22, 24, 25, 27, 29, 31, 33, 36, 41-44 and 46-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-3, 7-9, 12, 15, 20, 22, 24, 25, 27, 29, 31, 33, 36, 41-44 and 46-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/12/05, 4/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1-3,7-9,12,15,20,22,24,25,27,29,31,33,36,41-44 and 46-48.

DETAILED ACTION

Applicant's election with traverse of species of pyrethroids, species of nitrate in the reply filed on 10/20/08 is acknowledged. The traversal is on the ground(s) that The requirement was seen as a restriction. Species are subsets and overlap; and examination would encompass all. . This is not found persuasive because the requirement is to elect specific or The requirement was seen as a restriction. Species are subsets and overlap; and examination would encompass all. ultimate species. This was done for nitrate, but not for insecticide. Examiner finds that all pyrethroids are considered to be equivalent to each other, as the specific ones listed were included, not limited to only these pyrethroids.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 8, 9, 12, 36, 41-43, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by KANDATHIL et al 5948424.

A mosquito coil of single helical shape (Figures) of 7-hour burn time (column 4, lines 28, 29) of pyrethroids-allethin at 0.05-3% (column 4, lines 34-44) at the instant range of claim 9.

The required angles are met at claim 1, since the product is the most limiting form as of claims 36, 41-44. The product of KANDATHIL emanates, since it is the instant combustible product and most limiting pesticide of claims 9, and 48, and . burn time of most limiting claim 42. The organic fibrous material is of cellulose-wood powder or vegetable shell powder (column 2, lines 12-140. Although not of vacuum molded production, this process is not of patentable weight in consideration of the product claim. However, KANDATHIL states that the product of mixing and heating (column 4, lines 60-65) to form a dough-like mass can be extruded-requiring pressure- and can be prepared by other techniques, not critical (column 5). Heating meets the instant claim 2-thermoformed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7-9, 12, 15, 20, 22, 24, 25, 27, 29, 31, 33, 36, 41-44, 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over KANDATHIL et al US005948424A in view of RECITT W0 0215689 and WU GB 681519.

KANDATHIL (above) meets the instant claimed mosquito coil, but not all claims are met. However, since the same traditional and conventional materials, the same pulp and functional ingredients, such as the nitrate burning aid are prepared and molded into the combustible mosquito coil with the same burn time, the components and ingredients would need to be the same concentrations, sizes, and density, absent any objective evidence by applicant to the contrary.

The process (claim 46) is also obvious as standard techniques, known to include vacuum molding, are acceptable by KANDATHIL, and met at claim 47 when vacuum is 0 Pa. Nitrates, dyes, and perfumes are incorporated into the pulp during its preparation (column 4, lines 51-56).

RICKITT also provides mosquito coils, of the instant thickness and density and weight-for instance, Example 9, meeting claims 27, 33, and 44. Since the product is the same, and with the same burn time, the width and length would also be the same. The instant burn aids, and concentrations, are also shown-see page 3. They are coated onto the pulp-cardboard.

WU is cited to show the traditional processes at KANDATHIL, include molding (page 2, lines 3-18); shown at 0 Pa.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize a combustible mosquito repellent insecticide control means, to use any of art recognized means, as of Kandathil. Motivation to use a

specific repellent is shown by Kandathil.. Solvents, adjuvants and exact ratios and amounts thereof are within the purview of one in the art to attain, in order to optimize desired effects, such as control of specific insects, composition compatibility, stability, convenience & burn time.

All the critical elements of the instant are disclosed. The amounts and proportions of each ingredient are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the form of each ingredient to optimize the effect desired, depending upon the reduction of toxicity, cost minimization, enhanced, and prolonged effects, with consideration of ingredient compatibility.

There is no non obvious and/or unexpected results obtained since the prior art is well aware of the use of insecticides for control of insects and the use of additives for the functionality for which they are known to be used is not a basis for patentability. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NEIL LEVY/

Primary Examiner, Art Unit 1615